



2022 Annual Town Meeting Information – ARTICLE 71

Vote Implementation Information

Article 71 (Bylaw Amendment: Gender Equality on Beaches - Citizen Petition)

Article and Motion/Comment(s) as printed in the 2022 Annual Town Meeting Warrant:

To see if the Town will vote to: Amend the General Bylaws of the Town by adding a new section to read as follows:

“In order to promote equality for all persons, any person shall be allowed to be topless on any public or private beach within the Town of Nantucket.”

and further to authorize the Town Clerk to insert said bylaw in the appropriate section of the Town code; or to take any other action relative thereto.

(Dorothy Stover, et al)

FINANCE COMMITTEE MOTION: Moved that Chapter 66 (Coastal Areas and Open Spaces, Protection of) of the Code of the Town of Nantucket is hereby amended as follows (*NOTE: new language is shown as highlighted text, language to be deleted is shown by strikethrough; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket*):

§66-1. Purpose.

The purpose of this chapter is to protect the beaches, coastal areas and other open unimproved spaces of Nantucket by regulating activities within or upon these areas by persons whose activities are deemed to have a significant effect on the environment, including but not limited to wildlife and recreation; on scenic views; on excessive noise; on the natural, scenic, historic and aesthetic qualities of the beach environment or other open spaces on Nantucket; on the public safety and welfare; and on the preservation of peace and good order. Such protection is extended to private as well as to public open space areas as a correlate to owners giving express or implied consent to the use of their private property for any lawful purpose thereon.

In order to promote equality for all persons, any person shall be allowed to be topless on any public or private beach within the Town of Nantucket.

FINANCE COMMITTEE COMMENT: This Article’s sponsor made a reasonable argument that topless sunbathing is a matter of gender equality that is governed unequally by Town and State laws. As the Article has no discernable impact on Town finances, the Finance

Committee voted to give the Article a positive recommendation, permitting Town Meeting voters to express their preference on this issue.

SELECT BOARD COMMENT: The Select Board supports the Finance Committee Comment and recommends a phased implementation.

Vote of Town Meeting:

The vote of the Town Meeting was to adopt the Finance Committee Motion, as written.

Yes Votes: 327

No Votes: 242

Information about the Vote:

- This is a General Bylaw amendment which means it is not automatically in effect until the state Attorney General reviews it per Massachusetts General Law.
- The amendment will be sent to the state Attorney General's office for approval (or revision or overrule) within the next 2-4 weeks, along with other bylaw amendments approved at Annual Town Meeting.
- Attorney General bylaw approvals generally are received by the end of summer/early fall.
- While Attorney General approval is pending, relevant state laws (MGL Chapter 272, [Section 16](#) and [Section 53](#)) remain in effect. Essentially, while these laws do not expressly prohibit female toplessness at beaches, neither do they expressly allow it. The Town's traditional practice regarding the state law will remain in place: if a complaint is filed with the Police Department as to "open and gross lewdness and lascivious behavior", it will be investigated.
- The bylaw itself is specific to beaches, not beach parking lots or concession areas or playgrounds that are separated from a beach by a walkway or dunes or a boardwalk or some other visible separation.
- This is a Citizen's Petition not initially put forward by the Town; however, since it was approved by voters, the Town is required to interpret it and enforce it, if it is approved by the Attorney General.